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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/091,053

03/05/2002

John Eile

166-2

6703

24336

7590

12/23/2003

KEUSEY, TUTUNJIAN & BITETTO, P.C.  
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EXAMINER

SELLS, JAMES D

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/091,053

Applicant(s)

EILE ET AL.

Examiner

James Sells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 9, 13, 15, 17 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Machida et al (US Patent 6,092,578).

As stated in the last office action, Machida discloses a film transferring and pressing device. As shown in Fig. 1, the system comprises upper platen 105 and lower platen 102. Lower platen 102 is heated by heater 106 and receives a workpiece 103 thereon. Pressure motor 109 presses the platens 102 and 105 together via drive rod of unit 109a with the workpiece there between. Pressure control unit 113 controls the pressure motor 109 on the basis of the detection results from the pressure sensor 111 so that pressure can be applied for a predetermined time while preventing over pressurizing. Heater control unit 107 controls heater 106 within a desired temperature range.

At col. 1, lines 18-22, Machida discloses that the workpieces may take the form of wafers having a size from 8 to 12 inches. Thus the chamber 101 containing the above described press structure has dimensions permitting it to be mounted on a tabletop in the manner claimed by the applicant.

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The applicant is reminded that the materials used (i.e. layered material) are not germane to the patentability of an apparatus claim.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4, 6-8, 10-12, 14, 16, 18-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machida as described above in paragraph 2 in view of Forthmann (US Patent 4,743,333).

Forthmann discloses a heat sealing device for sealing two layers 6 and 8 of heat meltable material together. The device comprises toothed member 10 and ribbed member 40, which heat seal materials together in the manner claimed by the applicant. The device includes thermostat knob 52, timer knob 77 and air flow (i.e. pressure) control knob for regulating and controlling the parameters of temperature, pressure and duration in the manner claimed by the applicant (see col. 4, line 37 through col. 5, line 3).

It would have been obvious to one having ordinary skill in the art to employ a temperature, pressure and duration control system, as taught by Forthmann, in the apparatus of Machida in order to more precisely control the pressing operation. It would

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also have been obvious to heat seal the materials disclosed by Forthmann in the system of Machida as a matter of design choice based on desired physical properties of the articles being manufactured.

It is the examiner's position that non-stick liners are well known and conventional in the art and would have been obvious to employ in the device of Machida in order to prevent the materials from sticking to the press plates.

### ***Response to Arguments***

5. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that Machida is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Machida relates to heat sealing a plastic film to a substrate using opposed pressure platens. Thus it is the examiner's position that the disclosure of Machida is in the field of applicant's endeavor and the applicant's argument is believed to be incorrect in this instance.

Applicant argues the present invention does not require the specific environmental conditions to achieve effective operation as disclosed by Machida. This is true. However, applicant's claims employ the term "comprising". Therefore

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applicant's claims do not preclude the specific environmental conditions to achieve effective operation as disclosed by Machida. Therefore the applicant's argument is believed to be irrelevant in this instance.

Applicant argues Machida does not disclose a heating device coupled to the jaws for heating them both to a set temperature in the manner claimed by the applicant. The examiner does not agree. Applicant's claims merely recite a single heating device for heating the first and second jaws. Such a heating device inherently heats both jaws to varying degrees (i.e. heat must radiate or travel from the heating device to both jaws). Therefore since Machida teaches the same structure recited in applicant's claims, it is the examiner position that Machida clearly anticipated applicant's claimed invention.

***Telephone/Fax***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is (703) 308-2090. The examiner can normally be reached on Monday-Friday between 9:30 AM and 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1237. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-1237.

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



**JAMES SELLS  
PRIMARY EXAMINER  
TECH. CENTER 1700**